

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS

3 Civil Action No. 04-30172-MAP

4 ROBERT DADE,
5 Plaintiff,

6 vs.

7 BOLAND BUILDERS, INC., THOMAS
8 M. BOLAND, STUART JONES AND
9 MARY ROSE JONES,
10 Defendants.

11 DEPOSITION OF: THOMAS BOLAND, called by
12 counsel for the Plaintiff, taken pursuant to the
13 Federal Rules of Civil Procedure before Leigh B.
14 Gershowitz, Certified Shorthand Reporter, Registered
15 Merit Reporter, Certified Realtime Reporter and
16 Notary Public, at the Offices of O'Connell, Flaherty
17 & Attmore, 1350 Main Street, Springfield,
18 Massachusetts, on Friday, October 21, 2005,
19 commencing at 2:00 p.m.

20 APPEARANCES:

21 See Page 2

22 Leigh B. Gershowitz, CSR, RMR, CRR
23 Certified Shorthand Reporter
Registered Merit Reporter
Certified Realtime Reporter

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1 STIPULATIONS

2
3 It is agreed by and between the parties that
4 all objections, except as to the form of the
5 question, are reserved to be raised at the time of
6 trial for the first time.

7
8 It is further agreed by and between the
9 parties that all motions to strike unresponsive
10 answers are also reserved to be raised at the time of
11 trial for the first time.

12
13 It is also agreed that the deponent will
14 read and sign the deposition.

15
16 It is further agreed by and between the
17 parties that notification to all parties of the
18 receipt of the original deposition transcript is also
19 hereby waived.

1 APPEARANCES:

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22 -AND-

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BY: MICHAEL F. JOSEPH, ESQUIRE

Also in Attendance:

Shawn, Liberty Mutual Insurance Company

17

1 in relationship to the tarp -- the tarpaper going on?
 2 Obviously, they were cut first, but a day or two
 3 before, a week before? Do you recall?
 4 **A. Actually, it would be like the day before**
 5 **because this part was just being framed up as we**
 6 **went. Basically, the plywood goes on and they're**
 7 **covered up and we cut them and the paper goes across**
 8 **and then we set the skylights.**

9 Q. And typically do the skylights go in before
 10 the metal roof that goes on?

11 **A. I'm not really familiar with the metal**
 12 **roof. Under normal circumstances with shingles, the**
 13 **skylights would go in and then we shingle around it.**

14 Q. On this particular job, what was the
 15 construction plan? What was the plan that you had in
 16 mind, in terms of the progress? Were you planning to
 17 have the skylights fully installed before the metal
 18 roof went on or what?

19 **A. Yes.**

20 Q. Before Robert Dade's -- strike that.

21 There's been testimony about a walk-through
 22 that occurred shortly before Robert Dade's accident;
 23 do you recall that at all?

18

1 **A. The walk-through would probably be with the**
 2 **discussion of the skylights on the inside of the**
 3 **house.**

4 Q. Right. And do you recall that event?

5 **A. Yes.**

6 Q. Do you recall when that was in relationship
 7 to Robert Dade's accident?

8 **A. That afternoon. Or even later than that.**
 9 **It was during the same day.**

10 Q. Okay. The walk-through was the same day
 11 that Mr. Robert Dade got hurt?

12 **A. Yes.**

13 Q. The walk-through, what was the condition of
 14 the exterior of the roof? Had the plywood been put
 15 in?

16 **A. The plywood was partially put in where the**
 17 **area of the skylight was, yes.**

18 Q. And the skylight holes had been cut?

19 **A. The skylight holes had been cut.**

20 Q. Looking at the top picture as a kind of a
 21 guide, how far from the left-hand edge to the center
 22 of the house had been plywooded?

23 **A. Just to the left of the skylight because**

19

1 **the existing -- this part over the porch to the left,**
 2 **maybe eight or nine feet didn't even exist yet.**

3 Q. So the roof had been installed and the
 4 plywood up from the center of the house?

5 **A. No. Just from -- actually, just maybe**
 6 **three feet to the right of the skylight -- the right**
 7 **skylight and three feet to the left of the left**
 8 **skylight.**

9 Q. So just the area surrounding the skylights
 10 themselves?

11 **A. The skylights, exactly.**

12 Q. And in addition to the plywood being there,
 13 had the tarpaper been put up there as well?

14 **A. The tarpaper was put in after I put the**
 15 **plywood up, or consecutive order, actually, the next**
 16 **day.**

17 Q. And that was before the walk-through?

18 **A. That was before the walk-through, yes.**

19 Q. Now, what was the condition of the area,
 20 between the right-hand edge of the new plywood and
 21 the center area of the house where the design sort of
 22 changes?

23 **A. Part of it was an existing house and then**

20

1 **maybe -- I don't recall the exact measurements --**
 2 **about three or five feet or maybe even further to the**
 3 **right of the skylight -- of the right skylight was --**
 4 **that's where the addition was and that's where the**
 5 **plywood was.**

6 Q. Was any of it open to the air? If you
 7 stood underneath it, could you see out into the open?

8 **A. From underneath?**

9 **Q. Right.**

10 **A. Yes. It was still being -- it was still**
 11 **rough frame construction.**

12 Q. What was done to prevent rain from getting
 13 in?

14 **A. That was in the process of doing it right**
 15 **then and there. We were trying to put felt paper**
 16 **down and try to put ice and water down to seal it up**
 17 **to keep the water from coming in the side of the**
 18 **house into the main body of the house.**

19 Q. And was that done before Mr. Dade's
 20 accident, do you know?

21 **A. It was in the process of being done.**

22 Q. Was it completed before his accident?

23 **A. No. It wasn't completed.**

21

1 Q. What about to the left of the skylights,
2 what was there?

3 A. **Plywood and still in the process of being**
4 **framed to the left side of it.**

5 Q. Okay. Do you have any records as to when
6 anything was completed on this job?

7 A. **I really don't think I have any records of**
8 **it. I would have to say no.**

9 Q. Okay.

10 A. **I would be totally guessing.**

11 Q. Now, when you did -- did you participate in
12 the walk-through?

13 A. **Yes. The walk-through, I had the**
14 **discussion -- yes, I did.**

15 Q. And who all was with you?

16 A. **Mr. Dade -- Bob Dade, Jr.**

17 Q. Okay.

18 A. **He had one of his guys that works with him**
19 **was with him.**

20 Q. Do you know the name of the other guy?

21 A. **No, I don't.**

22 Q. Who was with him?

23 A. **No, I don't. There are several of them,**

22

1 so...

2 Q. Mr. Dade, somebody with him, anybody else?

3 A. **That works for him. The Joneses.**

4 Q. And the Joneses?

5 A. **Mm-hmm.**

6 Q. Both of them?

7 A. **I don't recall if both of them were there,**
8 **but Mr. Jones was.**

9 Q. You specifically recall --

10 A. **Yes.**

11 Q. -- Stewart Jones?

12 A. **Stewart was there, yes.**

13 Q. And anybody else that you can specifically
14 recall?

15 A. **Mrs. Jones, I do believe she was there, but**
16 **I know for sure because I was having a discussion**
17 **with Mr. Stewart Jones at the time while we were**
18 **discussing what was going on with the skylights**
19 **because it pertained to their house and the water**
20 **coming in.**

21 Q. And as best you can tell me, what was the
22 discussion with respect to -- in the kitchen area of
23 the walk-through?

23

1 A. **It was in discussion with the three**
2 **skylights that were in the ceiling at the time that**
3 **were covered up. Because I wanted to install the**
4 **skylights and it was in reference to the flashing**
5 **kits that you have to use with the skylights. And I**
6 **didn't know if I had the right kit or not to put in**
7 **there. And they said no. And basically what they do**
8 **is make their own flashing that goes around it, but**
9 **they don't put that in until after it gets roofed.**
10 **So I had to get some other membrane type to replace**
11 **it with.**

12 Q. And was there any other discussions that
13 you can recall?

14 A. **No. That discussion was basically at the**
15 **time that I was in there with that was strictly for**
16 **the skylights and the flashing around it.**

17 Q. And who was it that was describing the
18 manner in which Dade Roofing put flashing in for
19 skylights?

20 A. **It was Bob Dade, or junior, himself, and**
21 **the guy that was with him, his helper. Because I**
22 **inquired about it and they explained to me how they**
23 **did it. Because I wanted to make sure it was**

24

1 watertight.

2 Q. Do you recall about when that was that that
3 discussion was had?

4 A. **Time of day or the date?**

5 Q. Right. Time of day. I'm sorry.

6 A. **It was mid-afternoon, I believe.**

7 Q. What's mid-afternoon?

8 A. **Lunchtime, 1, 2 o'clock, maybe. I'd be**
9 **guessing, I'd say.**

10 MS. PELLETIER: Don't guess.

11 BY MR. CVEJANOVICH:

12 Q. Yeah. I don't want you to guess.

13 A. **No. That's what I said, I'd be guessing**

14 Q. And after you had that discussion, what did
15 you do?

16 A. **I needed to go -- after I had the**
17 **discussion with them, they explained how they had to**
18 **do it, and then I inquired how I needed to seal the**
19 **things up to keep the water from going in until they**
20 **got their -- until they got their metal roof on**
21 **there. So I went to retrieve some rubber membranes**
22 **to go around the skylights so I could install them.**

23 Q. And where was the rubber membrane?

25

1 A. **The supply house.**

2 Q. So you had to go purchase it?

3 A. **Yes.**

4 Q. And about when did you return to the house?

5 A. **Late in the afternoon.**

6 Q. And what were -- what was going on at that
7 time?

8 A. **I had talked to the Joneses. They had
9 informed me that he had fallen through the skylight.**

10 Q. Looking at the outside of the house and the
11 roof, in the area where the tarpaper had been laid
12 down, were there any outside diagrams, markings to
13 show where the skylights were?

14 A. **There were markings on the paper, so
15 pencilwise --**

16 Q. What color was the tarpaper?

17 A. **Black.**

18 Q. What color was the pencil?

19 A. **Gray.**

20 Q. Like a regular No. 2 lead pencil; is that
21 what we're talking about?

22 A. **Yes.**

23 Q. And were there any barriers around any of

26

1 the skylight area holes?

2 A. **Not at the time.**

3 Q. Were there any construction tape or flags
4 or other indications that the skylights were in that
5 location?

6 A. **Not from up top, just from underneath.**

7 Q. So in terms of from up top, the only thing
8 was the gray pencil marking on the tarpaper?

9 A. **That's correct.**

10 Q. Does the gray -- what's the purpose of the
11 gray pencil?

12 A. **It's just to know where we cut out
13 the -- for the skylights.**

14 Q. How do you determine from the top side
15 where that is? Do you measure it from -- from some
16 landmark or do you punch holes in the tarpaper until
17 you get to the edge of the tarpaper?

18 A. **No. There's actually a little indentation
19 with your hand from a line that goes around it that
20 you can visually -- you can see.**

21 Q. So you get up there and you kind of feel
22 around where --

23 A. **Yeah. It's just set and then we cut around**

27

1 where it is.

2 Q. Now, is this the first roof that you have

3 put on a remodeling renovation -- by "roof," I mean

4 the subroof, the plywood -- or have you done that as
5 part of your business in the past?

6 A. **Yes.**

7 Q. You've done it in the past?

8 A. **I've done -- put plywood on before, yes**

9 Q. And have you installed skylights in the
10 past?

11 A. **Yes.**

12 Q. And then papered them over?

13 A. **Papered them over and install the skylight
14 usually at the same time.**

15 Q. Okay. Have you ever had an occasion to cut
16 the skylight holes, put the paper up, and then have
17 the skylights installed at a different time, whether
18 it's the next day or several days or weeks later?

19 A. **No. I usually put the skylights -- as soon
20 as we start the roofing process, the skylights go in
21 at the same time. And the roofing process is part of
22 the paper.**

23 Q. And that would typically all be

28

1 accomplished in the same day?

2 A. **Yes.**

3 Q. And in the past, have you ever had occasion
4 to either delineate with markers or caution tape or
5 something like that or erect barriers around the
6 skylight locations in the roof?

7 A. **Generally it's done all at the same time so
8 it's a process of going forward, you lay the paper
9 down, you mark them out, and then you proceed. You
10 cut them out when you install the -- you install the
11 skylights.**

12 Q. So in the past, you have not had an
13 occasion to either put up barriers or markers; is
14 that correct?

15 A. **No.**

16 Q. Now, when you returned -- who in your crew,
17 if you can recall, did the tarpapering?

18 A. **I did the tarpaper.**

19 Q. And did you also do the gray pencil?

20 A. **Yes.**

21 Q. When you returned to the house after going
22 to purchase the rubber lining, had the accident
23 already occurred?